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REPORTS

OF THE COMMITTEE ON UNIVERSITIES OF THE WASHINGTON BOARD OF TRADE

of October 28, 1914, and April 27, 1915

RELATING TO

Proposed Legislation by Congress To Secure the Maintenance of Proper Standards for Granting Degrees in the District of Columbia

(Reprinted from the Annual Report of the Washington Board of Trade for 1914-1915)

TOGETHER WITH

A PROPOSED BILL

Recommended by the Committee and Approved in Principle by the Board of Trade, Entitled

"A Bill to Establish a University Board in the Department of the Interior"

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REPORT OF THE COMMITTEE ON UNIVERSITIES*

ALPHEUS H. SNOW, *Chairman.*
WM. KNOWLES COOPER, *Vice-Chairman.*

EDWARD S. BRASHEARS.
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F. E. CUNNINGHAM.
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LAURENCE W. DEMOTTE.
FRANK FULLER.
JAMES WALTER HEUSTIS.
CHARLES V. IMLAY.
JOSEPH TABER JOHNSON.
WILLIAM B. KING.
H. B. F. MACFARLAND.
J. ARCHIBALD MORIARTY.
MYRON M. PARKER.
ARTHUR T. RAMSAY.
WILLARD S. RICHARDSON.
THOMAS W. SIDWELL.
ERNEST L. THURSTON.
TOM A. WILLIAMS.

WASHINGTON, D. C., *October* 28, 1914.

To the President of the Washington Board of Trade:

The Committee on Universities respectfully reports as follows:

THE ABOLITION OF SHAM COLLEGES AND UNIVERSITIES IN THE DISTRICT

The general incorporation law, originally enacted by Congress for the District in 1870, permits "any five or more persons" to incorporate as a college or university, and as such "to confer upon such persons as may be considered worthy such academical or honorary degrees as are usually conferred by similar institutions," by merely filing a certificate of incorporation signed by them in the office of the Recorder of Deeds of the District. No restriction is placed upon this privilege, and this absence of restriction has led to the incorporation of many sham or "fake" colleges and universities, to the injury of the many excellent institutions of learning in the District and to the discredit of

*See note at end of this report.

the District throughout the educational world. Your committee presents the following facts and suggestions on this subject:

THE UNIVERSITIES AND COLLEGES OF RECOGNIZED STANDING IN THE DISTRICT

There are two ways by which colleges and universities may be incorporated in the District—by charter granted by Congress to a specific institution by means of a special act of Congress, or by the filing of articles of incorporation under the chapter of the general incorporation law relating to "institutions of learning."

The universities having special charters are: The George Washington University, chartered as the Columbian College in 1821; the Georgetown University, founded in 1789 and chartered as Georgetown College in 1844; Howard University, chartered in 1867; the American University, chartered in 1893; and the National University, chartered in 1896. To these should be added the Protestant Episcopal Cathedral Foundation, chartered in 1893, which has power to establish a university as a part of the Cathedral Foundation.

Among the existing universities incorporated under the "institutions of learning" chapter of the general incorporation law, the most notable are: The Catholic University of America, incorporated in 1887; St. John's University (Episcopalian, located at Shanghai, China), incorporated in 1905; and Boone University (Episcopalian, located at Wuchang, China), incorporated in 1909.

Gonzaga College, chartered in 1858, is the only college in the District specially chartered by act of Congress. There are besides several colleges in the District incorporated under the general incorporation law as "institutions of learning" which are doing excellent work. The Columbian Institution for the Deaf,

specially chartered by Congress in 1857, an excellent and most useful institution, has power by its charter to give collegiate instruction and degrees.

THE GENERAL INCORPORATION LAW RELATING TO EDUCATIONAL CORPORATIONS.

The provisions in the general incorporation law for the incorporation of colleges and universities are found in the subchapter relating to "institutions of learning" (District Code, Chapter XVIII, Subchapter 1). The Court of Appeals of the District, in the case of Chicago Business College *vs.* Payne, 20 D. C. Appeals, 606, has defined "institutions of learning," as used in this subchapter as meaning those institutions through which "instruction in the higher branches of human knowledge is generally disseminated" and "which owe their origin to private or public munificence and are established for the public good and not for private gain." Speaking of the general incorporation law (Chapter XVIII of the District Code), the court says:

"In the general incorporation act . . . there is a classification of the organizations which may be incorporated thereunder comprising twelve different and distinct classes. The first in the enumeration is 'institutions of learning,' so specifically designated, and as to them Congress says that the property to be acquired by them shall be held 'solely for the purposes of education and not for the individual benefit of the corporators or any contributor to the endowment thereof.' In the third class are grouped societies to be formed for 'benevolent, charitable, educational, literary, musical, scientific, religious or missionary purposes,' and it is implied in one of the sections that while organizations of this class may not necessarily be for individual profit, yet that they might also be

joint-stock corporations for private gain and for personal advantage. Thus Congress distinctly recognizes the difference between 'institutions of learning' and ordinary 'educational' establishments, and regards the former as being solely of a public character for public uses and purposes, while the latter may be organized for individual gain. It is true that the statute is one enacted for the District of Columbia alone, but the provision in it for 'institutions of learning' and for 'educational' societies under separate and distinct categories is evidently no more than a recognition of the distinction between the two classes prevalent everywhere throughout the United States."

Since the decision of the Court of Appeals above quoted, the subchapter of the general incorporation law relating to joint-stock corporations has been extended in its scope by Congress, so that educational corporations for profit may now be incorporated as ordinary joint-stock or business corporations, and some of the recently organized educational institutions for profit have been so incorporated.

THE INTENTION OF CONGRESS REGARDING COLLEGES AND UNIVERSITIES.

The clear intention of Congress, therefore, is to make a wide distinction between "institutions of learning" —that is, for practical purposes between colleges and universities—and all other kinds of educational corporations. Congress, following the ideas which prevail throughout the United States, regards colleges and universities as semi-public institutions and endows them with the degree-giving power, which is recognized as a semi-public function. All colleges and universities hold all their moneys and property on an educational trust and may hold gifts of money or property on perpetual educational trust. By reason of their semi-

public character, it is recognized throughout the United States that the State governments have the right to supervise and control the organization and operation of colleges and universities in the public interest, and particularly to protect the degree-giving power in any suitable manner. The failure of Congress to insert in the law proper safeguards to protect the public from the organization of sham colleges and universities which debase or pervert the degree-giving power must be regarded as an oversight. To amend the subchapter of the general incorporation law relating to "institutions of learning" so as to safeguard the public against the incorporation of sham colleges and universities will not affect adversely the other kinds of educational corporations, since these are regulated by other subchapters of this law.

THE ABUSES UNDER THE GENERAL INCORPORATION LAW.

The abuses which have arisen as respects "institutions of learning" under the general incorporation law are:

That educational business corporations for profit have been incorporated, sometimes with a capital stock, calling themselves colleges or universities, and claiming in their certificate of incorporation or otherwise the right to confer academic and honorary degrees:

That visionary persons, of more or less education and standing, have filed elaborate, but unpractical, certificates of incorporation, purporting to establish colleges and universities of national or world-wide character, with power to give all kinds of usual and unusual degrees, none of which institutions has ever existed except on paper:

That persons without education or financial responsibility have filed articles of incorporation as colleges

and universities and have conferred honorary degrees upon themselves or their associates; or have established concerns where instruction was given by correspondence or by word of mouth, of such kind as to be a travesty on collegiate and university education, and have conferred academic degrees therefor; or have established concerns for the mere selling of academic or honorary degrees without giving any instruction.

POSSIBLE REMEDIES.

Two ways have been suggested for remedying these abuses. The first is for Congress to establish a supervising board or official for all the colleges and universities of the District—the United States Commissioner of Education being considered by some as the proper official in the District for this purpose—and to give this board or official the power to investigate all educational institutions desiring to incorporate as colleges or universities and to approve or disapprove such incorporation according as the institution conforms or not to accepted standards for degree-giving institutions. The second is, for Congress to amend the general incorporation law so that the intention of Congress, as declared by the Court of Appeals in the case above referred to, will be entirely clear on the face of the statute and so as to require a showing of financial resources of specific amount to be made to the District Commissioners, by persons desiring hereafter to incorporate as a college or university, as a condition precedent to the right to file a certificate of incorporation.

REMEDIES APPLIED IN STATES OF THE UNION.

Both these methods have been applied with success in States of the Union. In New York and Pennsylvania, there is a supervising board for all colleges and

universities, and no degree-giving institution can be incorporated unless its educational standards meet the approval of the board and unless it can show that it has at least $500,000 of resources. In New Jersey the State Board of Education has recently been made a supervising board for colleges and universities with power over the giving of degrees. Under a law passed in that State in 1911, while President Wilson was Governor of the State, no educational institutions in the State, except those incorporated prior to 1886, are permitted to confer degrees unless their educational standards are approved by the State Board of Education, and persons violating the law are made subject to a penalty of $500, to be sued for and recovered by the State Board of Education. In Nebraska, it is required as a condition precedent to the incorporation of a college or university that a financial showing of property worth at least $100,000 should be made to the State Court. In Arkansas, the Legislature in 1911 provided for supervision of colleges and universities by the State Board of Education and gave the Board control over new incorporations. In Michigan, the Legislature in 1911 made the Superintendent of Public Instruction the supervising official for colleges and universities and required persons desiring to incorporate as a college or university to make a showing to the Secretary of State of property worth at least $100,000. In Massachusetts it was enacted in 1912 that the State Board of Education should report to the Legislature on all proposals for incorporating new colleges or universities. In Maryland, the Legislature in 1912 authorized the State Board of Education to make a list of approved colleges and universities. So long ago as 1897 the National Education Association and the American Bar Association unanimously placed them-

selves on record as favoring State supervision of degree-giving institutions.

VIEWS OF COMMITTEE CONCERNING THE REMEDY TO BE APPLIED IN THE DISTRICT.

Your committee would favor a supervising board or official for all the colleges and universities of the District, with power over new incorporations, and would also favor the requirement of a showing of sufficient financial resources by all institutions hereafter desiring incorporation as colleges or universities. There are, however, it is thought, such practical difficulties in the way of the establishment of a supervising board or official in the District that your committee has deemed it best to recommend only, as the best remedy now practicable, the system of requiring a showing of financial resources as a condition precedent to the incorporation hereafter of colleges or universities under the general incorporation law. It is believed that the requirement that an institution desiring to incorporate as a college or university shall make a showing to the District Commissioners that it has even quite meager financial resources—say, $20,000 in the case of a college and $100,000 in the case of a university—will be sufficient to prevent substantially all the existing abuses. The publicity attaching to such a method of incorporation would, it is believed, be a sufficient deterrent to those desiring to establish sham colleges and universities, and these amounts are so low that they would not prevent any proper institution from becoming incorporated. In 1912 the Carnegie Foundation for the Advancement of Teaching in its annual report considered at length the abuses arising from the incorporation of "sham" colleges and universities in the District, and recommended as a remedy the requirement of a property showing of the above amounts as a condition precedent to new incorporations.

THE GALLINGER BILL.

A bill is now pending in Congress, introduced by Senator Gallinger (Senate Bill No. 3431, 63d Congress, 1st Session), which was approved by the Committee on Universities of the Board of Trade last year, and which provides for amending the "institutions of learning" subchapter of the general incorporation law according to the recommendation of your committee.

The Gallinger Bill is to the following effect:

1. It defines "institutions of learning," and requires that persons desiring hereafter to incorporate as a college or university, or other institution of learning, shall incorporate exclusively under the subchapter relating to "institutions of learning."

2. It requires that persons desiring hereafter to incorporate as an educational corporation for pecuniary profit shall incorporate exclusively under the subchapter relating to joint-stock corporations.

3. It indirectly requires that persons desiring hereafter to incorporate as an educational corporation not for pecuniary profit but for special educational purposes as incidental to benevolent, missionary, social or religious work, shall incorporate exclusively under the subchapter relating to benevolent, missionary, educational, social and religious corporations.

4. It requires persons desiring hereafter to incorporate as a college or university under the subchapter relating to "institutions of learning" to make to the Commissioners of the District a showing of financial resources of the proposed corporation—$20,000 in the case of a college and $100,000 in the case of a university,—as a condition precedent to the filing of the certificate of incorporation of the Recorder's office; a certificate signed by all the Commissioners, stating that this condition has been complied with, being re-

quired to be attached to and filed with the certificate of incorporation.

5. It specially provides that nothing in the above provision shall affect any existing corporation.

6. It has a final provision prohibiting all corporations from giving degrees except those specially chartered with this power and those incorporated as colleges or universities under the subchapter relating to "institutions of learning," and also provides that all colleges and universities of the District now or hereafter incorporated shall maintain such standards for conferring academic and honorary degrees as are usually insisted upon and applied by colleges and universities of recognized standing in the United States.

RECOMMENDATION OF THE GALLINGER BILL.

Your committee recommends that the Board of Trade approve the provisions of the Gallinger Bill as above set forth, and take all proper measures to procure the amendment of the law on the principles stated in that bill.

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*The foregoing report was presented at the meeting of the Board of Trade on December 1, 1914, and was opposed and not adopted. The following resolution, offered as a substitute, was then adopted:

"*Resolved*, That no institution desiring to give degrees as a college or university be permitted to file articles of incorporation until it has received the indorsement of the United States Commissioner of Education."

At the meeting of the Board of Trade on April 27, 1915, the committee submitted the following special report, which was adopted:

SPECIAL REPORT OF THE COMMITTEE ON UNIVERSITIES

ALPHEUS H. SNOW, *Chairman.*
WM. KNOWLES COOPER, *Vice-Chairman.*
CHARLES V. IMLAY, *Secretary.*

EDWARD S. BRASHEARS.
H. K. BUSH-BROWN.
JOHN DOYLE CARMODY.
F. E. CUNNINGHAM.
CHARLES RAY DEAN.
D. A. EDWARDS.
FRANK FULLER.
SPENCER GORDON.
JAMES WALTER HEUSTIS.
JOSEPH TABER JOHNSON.
W. J. KEHOE.
GEO. A. KING.
WILLIAM B. KING.
JAMES DUDLEY MORGAN.
MYRON M. PARKER.
ARTHUR G. PLANT.
ARTHUR T. RAMSAY.
WILLARD S. RICHARDSON.
ERNEST L. THURSTON.
MATTHEW TRIMBLE
TOM A. WILLIAMS.

WASHINGTON, D. C., *April* 27, 1915.

To the President of the Washington Board of Trade:

The Committee on Universities respectfully reports as follows:

At the meeting of the Board held on December 1, 1914, your committee presented its annual report, calling attention to the defects in the general incorporation law enacted by Congress for the District. This law permits any five persons, citizens of the United States, to incorporate as a college or university and give academic or honorary degrees, without any restriction. In that report the committee, while approving the supervision of all the colleges and universities in the District by a supervising official or board as a proper method of reaching the abuses caused by the defects of the law, recommended another plan which they thought proper as an immediate measure of practical relief from the most pressing abuses. The plan

recommended was for Congress to pass an act providing a property qualification for new degree-granting institutions proposed to be incorporated under the general law—$20,000 in the case of a college and $100,000 in the case of a university; this property qualification is to be determined by the District Commissioners and their approval to be obtained before articles of incorporation could be filed.

Upon the reading of the committee's report, Dr. T. A. Williams, a member of the committee, proposed as a substitute the following resolution:

"Resolved, That no institution desiring to give degrees, as a college or university, be permitted to file articles of incorporation until it has received the indorsement of the United States Commissioner of Education."

The Board voted in favor of the substitute resolution, and the report of the committee was therefore not adopted.

It thereupon became incumbent upon the committee to carry out the principle of supervision by the United States Commissioner of Education, to which the Board of Trade had committed itself by this resolution.

Upon consideration by the committee, it seemed impracticable and unjust to provide a supervision exclusively for new institutions desiring to incorporate as a college or university, and that it was necessary to treat all alike as respects supervision, placing all existing degree-granting institutions upon the same basis as proposed institutions.

The committee also concluded that a board headed by the Commissioner of Education would be preferable to vesting this power in that official alone.

The committee considered whether the board should be a local board of and for the District, or a national board with special powers in the District. The Board

of Trade having designated the Commissioner of Education as the supervising official for new incorporations, it seemed to follow that the sentiment of the Board of Trade would be in favor of a national supervising board with special powers in the District, rather than a local supervising board. The committee, upon consideration, concluded that such a board should be national, with special powers in the District.

The progress of the national university idea and the impracticability of there being two university boards in the District led the committee to consider the possibility of combining the two functions in one board. The hearings in February and March, 1914, before the Committee on Education of the House of Representatives, on the National University Bill introduced by the National Association of State Universities, made it evident that there was a considerable body of opinion in the United States favoring the establishment of a national board of university character for utilizing the resources of the Government for educational research and possibly also for carrying on postgraduate instruction. Such a national university board, if established, would inevitably come into relationship with any supervising board for the colleges and universities of the District. The committee concluded that it was best to combine the two functions in one board.

After several meetings, the committee has agreed upon a draft of a bill to be introduced in Congress, if the Board of Trade approves. The principal features of this bill are as follows:

A board, called in the draft of proposed bill "the University Board," is proposed to be established in the Department of the Interior. This University Board is to consist of the Commissioner of Education and ten other persons, citizens of the United States, partly educators and partly men representative of the

general interests in arts, sciences and industries, to be appointed by the President, by and with the consent of the Senate. The ten non-official members are to serve for long terms—ten years is proposed—at a per diem compensation.

This proposed University Board is to have jurisdiction to devise measures for utilizing the resources of the government for educational research and to organize and carry on any postgraduate teaching for which Congress may appropriate or accept funds. Besides these national powers this proposed University Board is to have the following powers in the District:

To establish for all degree-granting institutions in the District any classifications, definitions, requirements and standards which it may deem necessary and proper and which are consistent with the ordinary practice in the United States; to act as relator in *quo warranto* proceedings to forfeit the charters of any degree-granting institutions which may have subjected themselves to such forfeiture by non-user or misuser of their franchises; to approve or disapprove any proposed incorporation of a degree-granting institution and any proposed consolidation or merger of existing degree-granting institutions, according as the board may deem desirable in the public interest; to enjoin the operations of any foreign degree-granting corporation which may improperly grant degrees in the District; and generally to do all acts, not inconsistent with law, to protect and preserve the degree-granting power as exercised by institutions in the District.

This proposed University Board is to report each year to the Secretary of the Interior, including in its report recommendations for carrying into effect the purposes of the act. This provision will, it is hoped,

furnish Congress with the information necessary to enable it gradually and judiciously to develop the jurisdiction of the board if it should deem it proper so to do.

The powers designated are, it is believed, sufficient to enable the proposed University Board to remedy all existing abuses in the District. The dignified and conservative character of the board, under the chairmanship of the Commissioner of Education, and the limits placed on its powers, will, it is believed, insure that its action will be beneficial to all the existing colleges and universities in the District which are properly exercising the degree-granting power.

The Commissioner of Education has carefully gone over with a subcommittee of this committee the draft of proposed bill of which the general features are above given, and authorizes the committee to state that he considers the plan proposed by it the best that has yet been devised.

The committee therefore recommends that the Board of Trade approve the principles of the draft of bill as above set forth, and authorize the Executive Committee to take such measures as may be proper to procure the passage of legislation on the general plan above outlined.

(Proposed bill recommended by the Committee on Universities in the foregoing Special Report, and approved in principle by the Washington Board of Trade at its meeting on April 27, 1915.)

A BILL

To Establish a University Board in the Department of the Interior

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established, in the Department of the Interior, a board, to be known as the University Board. Said board shall consist of the Commissioner of Education, together with ten other persons, citizens of the United States, representative of the higher educational interests of the United States and of the general interests in arts, sciences and industries, who shall be appointed by the President, by and with the consent of the Senate. Of the first board two members shall hold office for two years, two for four years, two for six years, two for eight years, and two for ten years; the President to designate the terms. The members appointed upon the expiration of said terms shall hold office for the term of ten years. Vacancies shall be filled by appointment for the unexpired term. The Commissioner of Education shall be chairman *ex officio*, and the board may elect one of its members as vice-chairman. The board shall appoint a secretary and may employ necessary clerical and other assistants and employes. It shall have an official seal. Each member, other than the Commissioner of Education, shall receive a compensation of ten dollars per day during the sessions of the board, and necessary traveling expenses. The secretary shall receive a salary of $3,000 per year.

Sec. 2. The board shall have power:

(a) To inquire into the scientific operations of the government, and recommend to the President, from time to time, measures for utilizing for educational and research purposes such scientific operations and the governmental facilities connected therewith;

(b) To advise and direct adult research students, having such qualifications as may seem proper to the board, in the use of such governmental operations and facilities, under the limitations provided by law or by executive regulation; and

(c) To organize and carry on any postgraduate teaching and research work for which Congress may hereafter appropriate or accept funds.

Sec. 3. The board shall also have power:

(a) To establish any classifications, definitions, requirements and standards which it may deem necessary and proper, for all incorporated educational institutions in the District of Columbia, wherever incorporated, which have or claim to have any degree-granting power; *provided*, that such classifications, definitions, requirements, and standards shall be consistent with those generally recognized in the United States as necessary and proper;

(b) To act as relator in *quo warranto* proceedings to forfeit the franchises of any such institution incorporated by or under act of Congress, for misuser or nonuser of the same;

(c) To approve or disapprove, as the board shall deem proper, any certificate of incorporation proposed to be filed in the office of the recorder of deeds of said District by any persons desiring to incorporate under the general incorporation law enacted by Congress for said District as a corporation having any degree-granting power, and no such certificate of incorporation shall be so filed unless accompanied by the certificate of approval of the board under its seal, to be filed for record therewith;

(d) To approve or disapprove, as the board shall deem proper, any proposed consolidation or merger of corporations incorporated by or under act of Congress and located in said District, having or claiming to have any degree-granting power;

(e) To act as complainant in behalf of the United States in proceedings to enjoin the operations within said District of any foreign corporation having or claiming to have any degree-granting power, and improperly granting degrees; and

(f) Generally to do all acts, not inconsistent with law, which the board may deem necessary for maintaining proper standards in the granting of degrees by colleges or universities in said District.

Sec. 4. The board shall report each year to the Secretary of the Interior, making such recommendations as it may deem proper for carrying into effect the purposes of this act.

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